

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

October 24, 2005

MOORE & VAN ALLEN PLLC P.O. BOX 13706 RESEARCH TRIANGLE PARK, NC 27709 US

Dear Sir/Madam,

Your refund request for 09919750 in the amount of \$1,020.00 has been denied .

Small entity status fee not refundable. The time has expired for the refund of this fee. A refund based on establishment of small entity status may only be obtained if a verified statement under 37 CFR 1.27 and a request for the refund of excess amount are filed within three months of timely payment of the full fee (37 CFR 1.28).

Sincerely,

ELEANOR KURTZ Technical Center Others 703 308-9010 x177

Attorney Docket: 013341-000003b

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

Buncke, Harry J. 16 Ed Confirmation No.: 7589 Jackson, Gary

Docket No.

013341.0000034 IENT & INFOE Examiner:

CFFICE

3731

Reissue Serial No.

09/919,750

Art Unit:

Reissue Filed

July 31, 2001

Customer No.: 24239

Reissue of

U.S. Patent No. 5,931,855 (U.S. Serial No. 08/859,887)

Title: SURGICAL METHODS USING ONE-WAY SUTURE

Mail Stop 16 Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

REQUEST FOR REFUND

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the US Postal Service as first class mail on August 11, 2005, in an envelope addressed Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450

On February 9, 2005 an Office Action was issued in the subject U.S. patent application and given a 1month time period in which to respond without extensions.

On March 21, 2005 an Amendment responding to the February 9, 2005 Office Action was fax filed by Karen L. Wade (Registration No. 52,332) to Examiner Gary Jackson at (703) 872-9306, with transmission beginning at approximately 4:36 p.m. and ending at approximately 4:38 p.m, with a confirmation reading "successfully transmitted". A copy of the Amendment, fax cover sheet and fax confirmation is attached hereto as Exhibit A. In the Amendment fax filed on March 21, 2005, the Commissioner was authorized to charge \$120.00 for the large entity one-month extension fee (as well as charge any deficiencies or to credit any overpayments) to Deposit Account No. 13-4365.

On June 16, 2005, Jennifer L. Skord (Registration No. 30,687), discovered upon her review of PAIR that the Amendment fax filed on March 21, 2005 to Examiner Gary Jackson was not listed in the file history of U.S. Patent Application No. 09/919,750. Ms. Skord then telephoned Examiner Jackson and left a voicemail inquiring as to why the Amendment was not listed in the file history. Ms. Skord, having checked PAIR again and not having received a return call from Examiner Jackson, left voicemails for Examiner Jackson on June 24, 2005 and again on June 28, 2005, inquiring as to why the Amendment fax filed on March 21, 2005 was not listed in the file history. Later on June 28, 2005 Examiner Jackson left a voicemail for Ms. Skord stating that he had not received the Amendment responding to the February 9, 2005 Office Action that was fax filed on March 21, 2005. On June 29, 2005 Ms. Skord telephoned TRII\611181v1

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Attorney Docket: 013341-000003b

Examiner Jackson and left a voicemail advising that she would mail to him the Amendment responding to the February 9, 2005 Office Action and its transmittal and confirmation of successful transmission. Late in the day on June 29, 2005 Examiner Jackson telephoned Ms. Skord and requested that she fax and mail to him the Amendment responding to the February 9, 2005 Office Action, as originally fax filed on March 21, 2005.

On June 30, 2005 Ms. Skord fax filed to Examiner Jackson at (703) 872-9306 a copy of the Amendment responding to the February 9, 2005 Office Action as originally fax filed on March 21, 2005, Certificate of Facsimile Transmission, confirmation of successful transmission, along with a Transmittal for Copy of Amendment Responsive to Restriction - - Amendment Misplaced at US Patent and Trademark Office explaining the details as referenced herein, as requested by Examiner Jackson. A copy of the June 30, 2005 fax filed Transmittal and its enclosures are attached hereto as Exhibit B.

On July 1, 2005 \$120.00 was debited from Deposit Account No. 13-4365 (fee code 1251) for payment of the large entity one-month extension fee for responding to the February 9, 2005 Office Action. A copy of the Deposit Account Statement reflecting this charge is attached hereto as Exhibit C.

On August 2, 2005, \$1,020.00 was debited from Deposit Account No. 13-4365 (fee code 1253) for payment of the large entity three-month extension fee for responding to the February 9, 2005 Office Action. A copy of the Deposit Account Statement reflecting this charge is attached hereto as Exhibit D.

Applicants believe the August 2, 2005 debit from Deposit Account No. 13-4365 in the amount of \$1,020.00 to be an error. Applicants respectfully request a refund to Deposit Account No. 13-4365 in the amount of \$1,020.00.

Hord

Respectfully submitted,

By:

Jennifer L. Skord

Registration No. 30,687

Attorney for Applicants

Moore & Van Allen, PLLC

430 Davis Drive, Suite 500

Morrisville, NC 27560-6832

Phone:

919-286-8000

Facsimile: 919-286-8199

August 11, 2005

Date

EXHIBIT A



rightfax@mvalaw.com

Monday, March 21, 2005 4:38 PM From:

Yourfax has been successfully sent to Gary Hackson at 1703 872 9306 3 Trina Holland Sent: To: Subject:

Your fax has been successfully sent to Gary Jackson at 1 703 872 9306.

From: Katrina Holland for Karen Wade

Client: 013341

Matter: 000003

Time: 3/21/2005 4:36:37 PM

Sent to 1 703 872 9306 with remote ID "USPTO"

Result: (0/339;0/0) Successful Send

Page record: 1 - 2 Elapsed time: 00:44 on channel 5



Certificate of Transmission under 37 CFR 1.8

Certi	ficate of Transmissi	eing facsimile transmitted to the United March 21, 2005
I hereby certify t	hat this correspondence is o	March 21, 2005
States Patent and	I Trademark Office on	March 21, 2005 Date
Xara	Wale	
Signature		
Karen Wade Typed or printe	d name of person signing C	ertificate
		919/28 <u>6-8085</u>
52,332	umber, if applicable	Telephone Number
Registration N	imber, it application	
Note: Each par must identify e	per must have its own certificach submitted paper.	cate of transmission, or this certificate
Fax No.:	703-872-9306	
Art Unit:	3731	
Examiner:	Gary Jackson	
Appl. Serial	No.: 09/919,750	
Filed:	July 31, 2001	
Conf. No.:	7589	
From:	Karen Wade	
Date:	March 21, 2005	
Pages:	_4_ (including cover)	4 4 70000
Papers subi	mitted: Amendment/Respor	ase to Office Action (4 pages)



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

Buncke, Harry J.

Confirmation No.: 7589

Docket No.

013341.000003b

Examiner:

Jackson, Gary

Reissue Serial No.

09/919,750

Art Unit:

3731

Reissue Filed

July 31, 2001

Customer No.: 24239

Reissue of

U.S. Patent No. 5,931,855 (U.S. Serial No. 08/859,887)

Title

SURGICAL METHODS USING ONE-WAY SUTURE

MAIL STOP -- REISSUE Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

AMENDMENT (Responsive to February 9, 2005 Official Action)

This is responsive to the February 9, 2005 Official Action. Favorable reconsideration is respectfully requested in view of the following Amendments and Remarks.

Please amend the subject patent application by amending the claims in the following manner.

IN THE CLAIMS:

Please withdraw claims 1-15, 21-26, 74-84, and 95-105.

Please cancel claims 27, 58-59 and 106-145.

Docket No.: 013341.000003b Reissue Serial No.: 09/919,750

REMARKS

Claims 16-20, 60-65, and 85-94 are pending herein after entry of the amendments.

Claims 1-15, 21-26, 74-84, and 95-105 have been withdrawn, and claims 27, 58-59 and 106-145 have been canceled herein. Applicant respectfully reserves the right to file one or more divisional applications on any of the canceled claims. No new matter has been added by these amendments, thus, the Examiner is respectfully requested to enter the amendments.

In response to the Restriction Requirement, Applicant elects, without traverse, the claims of Group I (claims 1 – 26, 60-65 and 74-105). Further, Applicant elects, with traverse, species number 2, method for supporting skin in a facelift operation, recited in claims 16-20, 60-65, and 85-94. The traversal is on the basis that the Examiner has not demonstrated that the requirements for claim restriction have been met. In particular, it is stated in section 803 of the MPEP that two criteria for proper restriction of claims must be met: 1) The inventions must be independent and distinct as claimed, AND 2) there must be a serious burden on the examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

Applicant notes that, of the claims in Group I, claims 1-26, 60-61 and 63-65 were allowed by the Examiner in the Official Action dated June 15, 2004; therefore, most of the claims of the two species designated by the Examiner have already been examined together and have been allowed. Thus, Applicant believes that the Examiner has not met the requirements of a prima facie showing of why search and examination of all of the claims of Group I, most of which have already been searched and examined, would pose a serious burden. Thus, Applicant respectfully requests that this election of species restriction be reconsidered and withdrawn.

By the above Amendments and Remarks, Applicant respectfully submits that the present application is now in proper condition for allowance and respectfully solicits official notification of allowance from the Examiner.

of allowance from the Examiner.

If a minor issue remains outstanding after the Examiner has studied the above Amendments and Remarks, the Examiner is respectfully requested to telephone the undersigned attorney so that any such matter may be resolved and the application be placed in condition for allowance without the necessity for an Official Action.

2 of 3

Docket No.: 013341.000003b Reissue Serial No.: 09/919,750

The Commissioner is authorized to charge the fee of \$120.00 for the one-month extension of time for a large entity to Deposit Account No. 13-4365, and the Commissioner is authorized to charge any deficiencies, or to credit any overpayment, to that deposit account.

Respectfully submitted,

	. 1
Date:	3/21/05
Daw.	

J 18 1 5 1

Karen L. Wade

Registration Number: 52,332

MOORE & VAN ALLEN, PLLC 430 Davis Drive, Suite 500 Morrisville, North Carolina 27560-6832

Telephone: 919-286-8000 Facsimile: 919-416-8385

EXHIBIT B

Trina Holland

From:

rightfax@mvalaw.com

Sent:

To:

Subject:

Trina Holland
Your fax has been successfully sent to ATTN: Examiner Gary Jackson at 1 703 872 9306 []

Your fax has been successfully sent to ATTN: Examiner Gary Jackson at .-----

1 703 872 9306.

From: Katrina Holland, Patent Assistant to Jennifer Skord

Client: 013341 Matter: 000003

Time: 6/30/2005 10:30:21 AM

Sent to 1 703 872 9306 with remote ID "USPTO"

Result: (0/339;0/0) Successful Send

Page record: 1 - 8 Elapsed time: 02:28 on channel 11



	Y C. Skord
FROM	Katrina Holland, Patent Assistant to Jennifer Skord
TELEPHONE	919 286 8107
	919 416 8307
FAX	Thursday, June 30, 2005 10:30:12 AM
DATE	Thurs

PAGES INCLUDING COVER SHEET	08
USER NUMBER	013341
CLIENTMATTER	000003

Attention:

Attention.	
ТО	ATTN: Examiner Gary Jackson
COMPANY	
TELEPHONE	2007
FAX	1 703 872 9306

Remarks:

PLEASE DELIVER TO EXAMINER GARY JACKSON



Moore&VanAllen

Moore & Van Allen PLLC Attorneys at Law

Suite 500 430 Davis Orive PO Box 19708 Research Triangle Park, NC 27709

Courler. Suite 600 430 Davis Drive Monisville, NC 27560

T 919 286 8000 F 919 286 B199 www.mvalaw.com

To comply with certain U.S. Treasury regulations we inform you that unless expressly stated otherwise any U.S. Federal tax advice contained in this fax including attachments is not intended or written to be used and cannot be used by any person for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service.

IF FAX IS ILLEGIBLE OR INCOMPLETE, PLEASE CALL 919 286 8180 OR 800 333 3729.

Unless otherwise indicated, a facsimile machine printout of this document shall be considered an original counterpart of the document, and a writing with the sender's signature. If any, printed thereon deemed an original signature. The information contained in this facsimile message is attempt privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is wrongful and may subject you to civil liability. If you have received this communication in error, please immediately notify us by talephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

> Chadotte, NC Charleston, SC



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue Appln. No.

09/919,750

Confirmation No.: 7589

Inventor

Harry J.Buncke

Reissue Filed

July 31, 2001

Art Unit

3731

Reissue of

U.S. Patent No. 5,931,855 (U.S. Serial No. 08/859,887)

Examiner

Gary Jackson

Docket No.

013341.000003b

Docket No. Customer No.

24239

Title

SURGICAL METHODS USING ONE-WAY SUTURE

CERTIFICATE OF MAILING AND OF FACSIMILE

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the US Postal Service as first class mail on June 30, 2005, in an envelope addressed to Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450, and also to facsimile no.

Kattina, 1703,872 9306

Katrina T. Holland

TRANSMITTAL FOR COPY OF AMENDMENT RESPONSIVE TO RESTRICTION --AMENDMENT MISPLACED AT US PATENT AND TRADEMARK OFFICE

Sir:

This is in connection with the February 9, 2005 Office Action, which is a Restriction Requirement, and the responsive Amendment forwarded by facsimile on March 21, 2005.

Examiner Jackson is thanked for his voice mail to and telephone conference with the undersigned vis-à-vis this matter.

Specifically, voice mail was left for Examiner Jackson regarding that when the undersigned brought up the application on PAIR, there was no indication of receipt at the US PTO of the March 21, 2005 facsimile transmission of the Amendment responsive to the February 9, 2005 Office Action. Then, Examiner Jackson left a voice mail for the undersigned that he had not received the March 21, 2005 facsimile transmission of the responsive Amendment, and subsequently he spoke with the undersigned and requested that a copy of the March 21, 2005 TRIIV60566541

responsive Amendment be sent to him both by facsimile and by mail. Accordingly, enclosed is a copy of each of the following:

A. Print out from rightfax of "successful send"

March 21, 2005, 4:36:37 pm (1 page)

B. March 21, 2005 Certificate of Facsimile

Transmission under 37 CFR 1.8 (1 page)

C. March 21, 2005 AMENDMENT (Responsive to

the February 9, 2005 Official Action) (3 pages)

DEPOSIT ACCOUNT

Although it is believed that no fee is due since applicant has a "successful send" of facsimile transmission on March 21, 2005 of the responsive Amendment, and thus, it was timely filed but apparently was misplaced by the US PTO after receipt there, nevertheless the Commissioner is authorized to debit any amount due, in connection with this correspondence, from **Deposit Account No. 13-4365**.

Respectfully submitted,

By:

Jennifer L. Skord

Registration No. 30,687

Attorney for Applicant

Moore & Van Allen, PLLC

430 Davis Drive, Suite 500

Morrisville, NC 27560-6832

Phone:

919-286-8000

Facsimile: 919-286-8199

212-200-0000

Encls.

June 30, 2005

Date





Trina Holland

From:

rightfax@mvalaw.com

Sent:

Monday, March 21, 2005 4:38 PM

To:

Trina Holland

Subject:

Your fax thas been successfully sent to Gary Jackson at 4 703 872 9306

Your fax has been successfully sent to Gary Jackson at 1 703 872 9306.

From: Katrina Holland for Karen Wade

Client: 013341 Matter: 000003

Time: 3/21/2005 4:36:37 PM

Sent to 1 703 872 9306 with remote ID "USPTO"

Result: (0/339;0/0) Successful Send

Page record: 1 - 2

Elapsed time: 00:44 on channel 5



I hereby certify States Patent a	at the semonandance	is being facsimile transmitted to the United March 21, 2005 Date
Signature		
Voren Wade	ted name of person signing	g Certificate
52,332		<u>919/286-8085</u>
Registration N	Number, if applicable	Telephone Number
Note: Each pa must identify	aper must have its own cer each submitted paper.	tificate of transmission, or this certificate
Fax No.:	703-872-9306	•
Art Unit:	3731	
Examiner:	Gary Jackson	
Appl. Serial	No.: 09/919,750	
Filed:	July 31, 2001	
Conf. No.:	7589	
From:	Karen Wade	•
Date:	March 21, 2005	
Pages:	4 (including cover)	
Papers subr	nitted: Amendment/Respo	onse to Office Action (4 pages)







IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

Buncke, Harry J.

Confirmation No.: 7589

Docket No.

013341.000003b

Examiner:

Jackson, Gary

_ . ~ . .

Reissue Filed

09/919,750

Art Unit:

3731

Reissue Serial No.

July 31, 2001

Customer No.: 24239

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Docket No.: 013341.000003b Reissue Serial No.: 09/919,750

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Docket 140.: 013341.000003b Reissue Serial No.: 09/919,750

The Commissioner is authorized to charge the fee of \$120.00 for the one-month extension of time for a large entity to Deposit Account No. 13-4365, and the Commissioner is authorized to charge any deficiencies, or to credit any overpayment, to that deposit account.

Respectfully submitted,

	. 1	
	3/21/05	
Date:	3/21/02	

By: Xaran Wade

Karen L. Wade

Registration Number: 52,332

MOORE & VAN ALLEN, PLLC 430 Davis Drive, Suite 500

Morrisville, North Carolina 27560-6832

Telephone: 919-286-8000 Facsimile: 919-416-8385

COPY

In re application of: Harry J. Buncke
Title: Surgical Methods Using One-Way Suture

Serial No.:09/919,750 Group Art Unit: 3731 Examiner: Jackson, Gary Filed: July 31, 2001 Attorney Docket Number: 013341-000003b Date Mailed: June 30, 2005

Please confirm receipt of the documents listed below by stamping and depositing this self-addressed, stamped postcard with the United States Postal Service:

Transmittal for Copy of Amendment Responsive to Restriction - - Amendment Misplaced at U.S. Patent and Trademark Office with attachments as follows: copy of MVA fax confirmation, Certificate of Transmission & Amendment originally for file March 21, 2005; and

2. Acknowledgement Postcard

TRI1\608688v1 JLS/kth JUL 1 1 2005

EXHIBIT C







Deposit Account Statement

Requested Statement Month:

July 2005

Deposit Account Number:

134365

Name:

MOORE & VAN ALLEN, PLLC--PATENT DIVISION

Attention:

KATIE M. EFLAND

Address:

430 DAVIS DRIVE

City:

MORRISVILLE

State:

NC

Zip:

27560

Country:

UNITED STATES OF AMERICA

Gourn y.				
DATE SEQ POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
07/01 10 29196576 07/01 13 PAYMENT 07/01 103 11160637 07/01 104 11160637 07/01 105 11160637 07/01 106 11160637 07/01 114 09919750 07/05 23 0132010955 07/06 7 10908539 07/07 14 10386310 07/07 17 PAYMENT 07/08 181 11174938 07/08 274 11174938 07/08 275 11174938 07/08 276 11174938 07/08 492 PCT/US05/23 07/08 494 PCT/US05/23	014033-000028 RSW920050043US1- RSW920050043US1- RSW920050043US1- RSW920050043US1- 447RE 013341-000059 013341-000050US 014033-000005 014811-446.71DV1 014811-447.130UTL 014811-447.130UTL 014811-447.130UTL 398 006979-1365 398 006979-1365 398 006979-1365	29 8021 29 1311 29 1311 1251 8014 8021 1252 9203 1202 2011 2111	\$300.00 \$40.00 \$200.00 \$500.00 \$120.00 \$25.00 \$40.00 \$450.00 \$150.00 \$150.00 \$100.00 \$1,100 \$1,124 \$221.00 \$100.00 \$100.00 \$100.00 \$40.00 \$40.00 \$40.00 \$40.00	00 \$13,702.50 \$13,402.50 \$13,362.50 \$13,162.50 \$12,662.50 \$12,542.50 \$12,517.50 \$12,027.50 \$12,027.50 \$15,372.50 \$15,372.50 \$15,372.50 \$15,322.50 0 \$14,922.50 0 \$14,922.50 0 \$14,522.50 0 \$14,522.50 0 \$12,177.50 0 \$12,177.50 0 \$12,070.50 0 \$12,070.50 0 \$12,070.50 0 \$11,990.50 0 \$11,950.50 0 \$13,550.5

EXHIBIT D







Deposit Account Statement

Requested Statement Month:

August 2005

Deposit Account Number:

134365

Name:

MOORE & VAN ALLEN, PLLC--PATENT DIVISION

Attention:

KATIE M. EFLAND

Address:

430 DAVIS DRIVE

City:

MORRISVILLE NC

State: Zip:

27560

Country:

UNITED STATES OF AMERICA

POSTING	ATTORNEY DOCKET	FEE CODE	AMT	BAL
DATE SEQ REF TXT	NBR	0002		
08/02 10 09919750 08/02 111 11161405 08/02 112 11161405 08/02 113 11161405	447RE U05-0085.163 U05-0085.163 U05-0085.163	1253 1011 8021 1311	\$1,020.00 \$300.00 \$40.00 \$200.00 \$500.00	\$8,697.50 \$8,397.50 \$8,357.50 \$8,157.50 \$7,657.50
08/02 114 11161405 08/03 47 PAYMENT 08/04 59 11173599 08/04 59 11154863	U05-0085.163 014881-000702 013341-000124	1111 9203 8021 1205 1204	-\$1,040.0 \$40.00 \$200.00 \$200.00	\$8,697.50 \$8,657.50 \$8,457.50 \$8,257.50
08/04 61 11154863 08/04 67 11154230 08/05 6 11161474 08/05 7 11161474	013341-000124 013341-000125 014881.000725 014881.000725	1314 1011 1202 1311	\$400.00 \$300.00 \$650.00 \$200.00	\$7,857.50 \$7,557.50 \$6,907.50 \$6,707.50
08/05 8 11161474 08/05 9 11161474 08/05 10 11161475 08/05 11 11161475	014881.000725 014881.000725 014033.000082 014033.000082 014033.000082	1111 1011 1311 1111	\$500.00 \$300.00 \$200.00 \$500.00	\$5,907.50 \$5,707.50
08/05 20 PAYMENT 08/05 47 10957563 08/05 278 6913903 08/08 1 11161497	029538.15 CLE NAM 014811-328 014881.000713 014881.000713	9203 E CH-P 1252 8013 1011 1202	\$450.0 \$25.00 \$300.0 \$300.0	0 \$7,897.50 \$7,872.50 0 \$7,572.50 \$7,272.50
08/08 2 11161497 08/08 3 11161497 08/08 4 11161497 08/08 5 11161497 08/08 11 10957563	014881.000713 014881.000713 014881.000713 029538.15 CLE NAM	1201 1311 1111 ME CH-P 1252 9204	\$400.0 \$200.0 \$500.0 \$450.	\$6,672.50 \$6,172.50 \$5,722.50

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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